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No. 85-1384

Supreme Court, U.S.  
**FILED**

**JUL 25 1986**

JOSEPH F. SPANIOL, JR.  
CLERK

# **In the Supreme Court of the United States**

**OCTOBER TERM, 1985**

**WILLIAM R. TURNER; CATHY CROCKER; EARL ENGELBRECHT; BETTY BOWEN; BERNICE E. TRICKEY; HOWARD WILKINS; JANE PURKETT; WILLIAM F. YEAGER; LARRY TRICKEY, Employees of the Department of Corrections and Human Resources for the State of Missouri, Petitioners,**

**vs.**

**LEONARD SAFLEY, et al., MARY WEBB, et al., individually and as a class of similarly situated people, Respondents.**

**DR. LEE ROY BLACK; W. DAVID BLACKWELL; DONALD WYRICK; BETTY BOWEN; EARL ENGELBRECHT, Employees of the Department of Corrections and Human Resources for the State of Missouri, Petitioners,**

**vs.**

**LEONARD SAFLEY, et al., MARY WEBB, et al., individually and as a class of similarly situated people, Respondents.**

**ON PETITION FROM THE UNITED STATES COURT  
OF APPEALS FOR THE EIGHTH CIRCUIT**

## **JOINT APPENDIX**

*(Counsel on Inside Cover)*

**Petition for Writ of Certiorari Filed February 18, 1986  
Certiorari Granted May 27, 1986**

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\*The opinions of the lower courts regarding the issues before this Court are contained in the appendix to the petition for the writ of certiorari. The District Court Opinion *Safley et al. v. Turner et al.*, 81-0891-CV-W-6, 82-0072-CV-W-6, begins at A-19 of the Appendix and is also at 589 F.Supp. 586 (W.D. Mo. 1984). The Circuit Court Opinion styled as *Safley et al. v. Turner et al.*, 84-1827, 84-2337 appears in the Appendix beginning at A-1 and is also located at 777 F.2d 1307 (8th Cir. 1985).

**IN THE  
UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

**CASE NO. 81-0891-CV-W-6**

**CASE NO. 82-0072-CV-W-6**

**LEONARD SAFLEY, et al., MARY WEBB, et al.,  
individually and as a class of  
similarly situated people,  
Plaintiffs,**

**v.**

**WILLIAM R. TURNER; CATHY CROCKER; EARL  
ENGELBRECHT; BETTY BOWEN; BERNICE E.  
TRICKEY; HOWARD WILKINS; JANE PURKETT;  
WILLIAM F. YEAGER; LARRY TRICKEY, EM-  
ployees of the Department of Corrections and Human  
Resources for the State of Missouri**

**and**

**DAVID W. BLACKWELL; DONALD WYRICK;  
BETTY BOWEN; EARL ENGELBRECHT, Employees  
of the Department of Corrections and Human Re-  
sources for the State of Missouri,  
Defendants.**

**RELEVANT DOCKET ENTRIES**

<b>October 16, 1981</b>	<b>Complaint [Case No. 81-0891-CV-W-6] - under the Civil Rights Act, 42, U.S.C. §1983, with forma pauperis affidavit, filed. (Provisionally filed pursuant to Court en banc Order of Decem- ber 3, 1968). Acknowledgement to plaintiff, Information copy to Attor- ney General of the State of Missouri.</b>
<b>January 29, 1982</b>	<b>Complaint [Case No. 82-0072-CV-W-6] - under the Civil Rights Act, 42, U.S.C. §1983 with forma pauperis affidavit.</b>



(Provisionally filed pursuant to Court en banc Order of December 3, 1968). No distribution of copies made.

May 3, 1982

Order - mailed. (Ordered that cases 82-0072 and 81-0891 are hereby consolidated for all further proceedings).

October 5, 1983

Order - (Ordered that the plaintiffs' Motion for Leave to File Amended Complaint is Granted. Ordered that defendants' Motion to Dismiss is denied. Ordered the parties are to file witness and exhibit lists on or before 11-15-83. The parties are to meet on or before 11-30-83, produce each of their exhibits for inspection. The parties are to submit the proposed pre-trial order before 11-15-83. The parties should note that it will take a most compelling reason before there will be any further extension of these deadlines. For good cause shown, plaintiff P.S. Watson-Safley's Motion for Leave to File Answers to Request for Admissions Out of Time is granted. With respect to the Motion to Compel Discovery from Defendants, the parties are directed to confer within 10 days of the date of this order in an attempt to resolve their differences and, thereafter, to notify the Court of the results of this conference.)

October 21, 1983

Answer to plaintiff's amended complaint.

February 23, 1984 Minute - sheet of first day of trial. The two cases, consolidated for trial, are called by the Honorable Howard F. Sachs. Parties announce ready. Trial is to the Court. Parties make opening statements and the plaintiff presents evidence. Trial is recessed until 9:30 a.m., Friday, 2-24-84.

February 23, 1984 Stipulations - filed.

February 23, 1984 Order - Ordered that plaintiffs' Motion to Join as Additional Party Defendants Donald W. Wyrick, Betty Bowen and Earl Engelbrecht to Case No. 82-007-CV-W-6 is hereby granted.

February 24, 1984 Minute - sheet of 2nd day of trial. Trial is resumed to the Court with testimony being continued. Trial is recessed until 9:00 a.m. in Jefferson City, Missouri.

February 29, 1984 Minute - sheet of 3rd day of trial. Trial is resumed to the Court in Jefferson City, Missouri, with testimony continuing. Trial is recessed until 8:30 a.m.

March 1, 1984 Minute - sheet of 4th day of trial. Trial is resumed to the Court in Jefferson City, Missouri, with testimony continuing. Trial is recessed until 9:00 a.m. in Kansas City, Missouri.

March 2, 1984 Minute - sheet of 5th day of trial. Trial is resumed to the Court in Kansas City, Missouri, with parties continuing testimony and rest. The matter is taken under advisement by the

Court and all filings are due on or before March 23, 1984. Exhibits are retained with the Court's files.

March 2, 1984 Exhibit List - plaintiffs.

March 2, 1984 Exhibit List - defendants.

March 2, 1984 Exhibit List - defendants.

May 7, 1984 Memorandum Opinion and Order. (Ordered that counsel for plaintiffs and defendants confer, negotiate and prepare a suitable decree in accordance with this opinion. The joint or several proposals of the parties should be submitted to the Court within thirty days of the date of this order. It is further ordered that the Safley-Watson damage claims are denied. It is further ordered that plaintiffs' counsel, having generally prevailed on the merits of this cause, promptly submit his claim for attorneys' fees and expenses. It is further ordered that defendants engage in no harassment of inmates for their participation in this lawsuit.)

May 15, 1984 Motion - for Clarification or in the Alternative a Motion to Stay Injunction Pending Appeal - defendants, with Suggestions.

May 21, 1984 Memorandum to the Parties.

June 18, 1984 Order - Ordered that the Missouri Division of Corrections adopt the revised regulations concerning inmate

marriages and correspondence which are attached to this order as Exhibits A and B. It is further ordered that these rules are to be posted one time on the bulletin boards or other places regularly used to notify the inmate population of the Missouri Division of Corrections of events or other prison activities.

June 27, 1984 Notice of Appeal - \$70.00 paid #19290.

September 10, 1984 Order - Ordered that the Safley-Watson damage claims are denied. Ordered that defendants engage in no harassment of inmates for their participation in this lawsuit. Ordered that the Missouri Division of Corrections enforce and use the revised regulations concerning inmate marriages and correspondence which are attached as Exhibits A and B. Ordered that, unless heretofore accomplished, these rules are to be posted one time on the bulletin boards or other places regularly used to notify the inmate population of the Missouri Division of Corrections of events or other prison activities. Ordered that the plaintiffs be awarded attorneys fees in the amount of \$37,309.43. Ordered that jurisdiction is retained to modify or enforce this judgment.

September 10, 1984 Clerk's Judgment - in a civil case.

October 3, 1984 Notice of Appeal - defendants.



IN THE  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT  
OF MISSOURI  
WESTERN DIVISION

LEONARD SAFLEY, et al.,	)	
and MARY WEBB, et al.,	)	
individually and as a class	)	
if similarly situated	)	
persons,	)	
Plaintiffs,	)	
	)	Case No. 81-0891-CV-W-6
v.	)	Case No. 82-0072-CV-W-6
WILLIAM B. TURNER, et	)	
al.,	)	
and	)	
DAVID W. BLACKWELL,	)	
et al.,	)	
Defendants.	)	

**AMENDED COMPLAINT**

By their appointed counsel, plaintiffs state for their amended complaint against defendants and each of them:

1. This action arises under the First, Eighth, Ninth, and Fourteenth Amendments to the Constitution of the United States and under 42 U.S.C. § 1983 (1978). Jurisdiction of this Court is based on 28 U.S.C. §§ 1331 and 1343.

**PLAINTIFFS**

2. Plaintiff Leonard Safley is an individual residing at 524 Booth Street, Kansas City, Missouri 64125. Plain-

tiff P. J. Watson-Safley is an inmate of Renz Correctional Center [hereinafter Renz], Cedar City, Missouri, and is now married to plaintiff Leonard Safley.

3. Plaintiff Robert E. Thompson is a resident of the Kansas City Honor Center, 919 Oak St., Kansas City, Missouri. Plaintiff Linda Scott is a resident of Renz. Plaintiffs Thompson and Scott desire to correspond, visit, and be married, but those rights have been infringed by defendant William Turner and other employees of the Missouri Division of Corrections.

4. Plaintiff William Quillun is a resident of the Missouri State Penitentiary. Plaintiff Diana Finley is a resident of Renz. Plaintiffs Quillun and Finley desire to correspond, visit, and be married, but those rights have been infringed by defendant Turner and other employees of the Missouri Division of Corrections.

5. Plaintiff Nancy Row is a Renz inmate whose desire to correspond with her ex-husband and friends within the Missouri Prison system has been impaired by defendant Turner and other employees of the Missouri Division of Corrections.

6. Plaintiff David Means is a resident of the Kansas City Honor Center. Plaintiff Judy Henderson is a Renz resident. Plaintiffs Means and Henderson desire to correspond, visit, and be married, but those rights have been infringed by defendant Turner and other employees of the Missouri Division of Corrections.

7. Plaintiff Shirley Lute is a Renz resident who desires to correspond with other male and female inmates of the Missouri Division of Corrections. Her right to correspond has been infringed by defendant Turner and other employees of the Missouri Division of Corrections.

8. Plaintiff Mary Webb is a Renz resident whose correspondence with her attorney, her fiancé, her cousin, and her friends has been infringed by defendant Turner and other employees of the Missouri Division of Corrections.

9. Plaintiff Connie Flowers is a resident of Renz. Plaintiff Patrick Barks is a resident of the Kansas City Honor Center. Plaintiffs Flowers and Barks desire to correspond with each other but their right to do so has been impaired by defendant Turner and other employees of the Missouri Division of Corrections.

10. Plaintiff Alice Garnett is a resident of Kansas City, Missouri. Her right to correspond with friends and acquaintances at Renz and other Missouri penal institutions has been violated by defendant Turner and other employees of the Missouri Division of Corrections.

11. This action is brought on behalf of plaintiffs individually and as representatives of a class of (1) persons who either are or may be confined to the Renz Correctional Center and who desire to correspond with inmates at other Missouri Correctional facilities, or persons outside of the Missouri Division of Corrections; (2) persons who desire to correspond with inmates of any Missouri correctional institution whose correspondence with inmates of Missouri correctional institutions has been stopped or delayed for any reason other than an attempt to violate the extant rules of the Missouri Division of Corrections concerning correspondence; (3) persons who desire to visit or marry inmates of the Missouri Division of Corrections and whose rights of correspondence, visitation, and/or marriage have been or will be violated by employees of the Missouri Division of Corrections. This action is properly brought as a class action under Fed. R.

Civ. Pro. 23(b)(2) because the class is so numerous that joinder of all members is impracticable; there are questions of law and fact common to the class; the claims of the representative parties are typical of the claims of the class; plaintiffs anticipate that any defenses raised by defendants will be typical of the defenses applicable to the class; the representative parties will fairly and adequately protect the interests of the class on the issues raised herein; because defendants have acted or refuse to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief with respect to the class as a whole.

#### DEFENDANTS

12. Defendant Lee Roy Black is the Director of the Department of Corrections and Human Resources of the State of Missouri. Defendant W. David Blackwell is the Director of the Division of Adult Institutions for the State of Missouri. In their respective capacities, these defendants are ultimately responsible for the promulgation, implementation, and enforcement of the policies of the Missouri Division of Corrections concerning correspondence, visitation, and marriage of prison inmates, and further are sworn to uphold the constitutional rights of the inmates under their supervision. These defendants have knowingly defaulted on their obligation to enforce the pertinent rules of the Division of Corrections and in their responsibility to protect the constitutional rights of inmates under their supervision. In addition, these defendants have knowingly permitted rules, customs, and practices which violate the constitutional rights of inmates to flourish within the Missouri Division of Corrections.

13. Defendant William Turner is the Superintendent of Renz and is directly responsible for the implementation



and enforcement of Department of Corrections policies concerning correspondence, visitation, and marriage at that institution.

14. Defendant Earl Englebrecht is a case worker supervisor at Renz. Defendant Betty Bowen is a case worker at Renz. Defendant Cathy Crocker is a correctional officer at Renz. In their respective capacities, these defendants are responsible for implementation and enforcement of Missouri Division of Corrections policies concerning correspondence, visitation, and marriage at Renz.

15. Defendant Larry Trickey is the Superintendent of the Ozark Correctional Center at Fordland, Missouri. Defendant Bernice Trickey is the wife of Larry Trickey and has served on the staff at Fordland. Defendants Howard Wilkins, Jim Purkett, and William F. Yeager have formerly served on the staff of the Ozark Correctional Center at Fordland, Missouri. All of these defendants have had some responsibility for enforcing Missouri Division of Corrections rules concerning correspondence at the Ozark Correctional Center.

16. Defendants have been and are engaged in a conspiracy to violate the constitutional rights of plaintiffs and the class they represent. Each and all of the acts alleged herein were done by defendants not as individuals but under the color and pretense of the statutes, regulations, customs, and usages of the State of Missouri and under the authority of their respective offices in the Missouri Division of Corrections.

#### CORRESPONDENCE

17. The rules of the Missouri Division of Corrections concerning correspondence recognized that

[i]t is essential that inmates develop and maintain healthy family and community relationships. Correspondence and telephone contact with family members, close friends, and organizations are important factors in maintaining the morale of the individual and motivating positive and acceptable behavior.

18. The divisional rules provide, however, that correspondence between non-family members in different correctional institutions "may be permitted . . . if the classification/treatment team of each inmate deems it in the best interest of the parties involved. Correspondence between inmates in all division institutions will be permitted concerning legal matters."

19. The policy concerning correspondence between non-family members is unconstitutional insofar as it gives prison authorities total discretion in deciding what is in the "best interest" of the inmates because that standard is unconstitutionally vague when applied to speech protected by the First Amendment. In addition, that meaningless standard promotes and encourages arbitrary and capricious action on the part of state officials.

20. On information and belief, correspondence between non-family members at different institutions within the Missouri Division of Correction system is permitted at all institutions with the exception of Renz. On information and belief, defendant Turner and other employees of the Missouri Division of Corrections have a pattern and practice of refusing to permit inmates of Renz to correspond with or receive letters from inmates at other correctional institutions, a situation which appears to be unique within the Missouri Division of Corrections.

21. On information and belief, the reason given for refusing such correspondence is that Superintendent

Turner feels that correspondence between inmates is not in the best interest of any inmate. In this manner defendant Turner has violated the constitutional right of every inmate residing at Renz and any inmate who desires to correspond with an inmate residing at Renz.

22. On information and belief, defendant Turner and other employees of the Missouri Division of Corrections and at other institutions violate division policy by refusing to permit correspondence between inmates in division institutions concerning legal matters.

23. On information and belief, defendant Turner and other employees of the Missouri Division of Corrections violate division policy by reading incoming mail and by holding it for more than 24 hours before delivering it to the inmates.

24. On information and belief, employees of the Division of Corrections have violated division policy stating that "[t]here will be no restriction as to the number of letters an inmate may receive except when clear and convincing evidence justifies limitations" in that they have restricted certain inmates to only one letter a day.

25. Inmates of Renz who have complained concerning the correspondence policies effective at Renz have been harassed and threatened with discipline for attempting to pursue legal redress concerning their constitutional rights to correspond and marry.

26. On information and belief, incoming mail from persons who are not incarcerated has been read and stopped because those persons include in their mail an innocuous message from another inmate of the Missouri Division of Corrections. Mail also has been stopped on the erroneous ground that the correspondent is incar-

cerated in another correctional institution when that was not in fact the case. Mail to attorneys and relatives also has been stopped for no apparent reason. Legal mail has been delivered to inmates with the envelope already opened in violation of Department of Corrections rules.

### MARRIAGE

27. Neither Missouri state law nor Missouri Division of Corrections policy prohibits or restricts inmate marriages. Division of Corrections Policy states generally that the preparations for marriage will not be assisted by the Division and its personnel and will be done at the convenience of the institution.

28. Despite this written policy, defendant Turner refuses to permit inmates to be married at Renz even if the inmates accomplish all of the preparations themselves and arrange their own transportation.

29. Defendant Turner has arranged for the harassment and discipline of inmates who pursue their marriage plans against his wishes.

### VISITING

30. The Division of Corrections policy concerning visiting acknowledges that "[v]isits by family members, friends, and community groups are important factors in maintaining inmates morale and motivation of socially acceptable behavior."

31. The Division of Corrections visitation policy is applied arbitrarily and capriciously. For example, the fiance of Nancy Row's youngest daughter was allowed to visit her on one occasion but was refused a visit on a later occasion when plans for her daughter's marriage were to be discussed.



32. Inmates at certain Division of Corrections facilities are given furloughs which would allow them to travel to Renz or other penal institutions to visit friends and fiances and which would allow an opportunity for inmates to be married to these persons. Defendant Turner and other employees of the Division of Corrections, however, refuse to allow visits by inmates on furlough for other correctional institutions and refuse to prohibit visits for the purpose of marriage to an inmate.

33. The Division of Corrections visitation policy is unconstitutionally vague and infringes plaintiffs' rights of association guaranteed by the First Amendment in that it gives excessive discretion to prison authorities. Moreover, it has been applied in an arbitrary and capricious manner by defendants and other employees of the Missouri Division of Corrections.

34. The conduct of defendants and other employees of the Missouri Division of Corrections has deprived and continues to deprive plaintiffs of their rights of free speech and free association under the First and Fourteenth Amendments of the United States Constitution, has subjected them to cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments to the United States Constitution, has deprived them of the right to marriage guaranteed them by the Ninth and Fourteenth Amendments to the United States Constitution, and also 42 U.S.C. § 1983.

#### COUNT I - DAMAGE CLAIMS OF PLAINTIFFS SAFLEY AND WATSON

35. Plaintiffs Leonard Safley and P. J. Watson Safley reallege and incorporate by reference paragraphs 1-34 of this Complaint.

36. The rights of plaintiffs Leonard Safley and P. J. Watson-Safley to correspond, visit, and marry were unconstitutionally infringed by the actions of defendants Turner, Engelbrecht, Bowen, Crocker, L. Trickey, Wilkins, Purkett, and Yeager prior to the time that these plaintiffs were married on March 26, 1982.

37. After the marriage of these plaintiffs, plaintiff Watson was harassed by employees of the Missouri Division of Corrections at Renz.

38. Defendants' violation of plaintiffs' constitutional rights to correspond, visit, and be married and their subsequent harassment of plaintiffs for their efforts to exercise their constitutional rights caused injury and damage to these plaintiffs in the amount of \$20,000 actual damages.

39. Defendants' conduct in infringing on the rights of plaintiffs and each of them was done deliberately and intentionally and with legal malice, and therefore these plaintiffs are entitled to punitive damages in the amount of \$100,000 to punish and deter these defendants and other employees of the Missouri Division of Corrections from violating the constitutional rights of inmates.

WHEREFORE, plaintiffs Leonard Safley and P. J. Watson-Safley pray for judgment against defendants Turner, Englebrech, Bowen, Crocker, L. Trickey, B. Trickey, Wilkins, Purkett, and Yeager, and each of them in the amount of \$10,000 actual damages and \$100,000 punitive damages, for an injunction prohibiting further violations of their constitutional rights or harassment of them for their attempts to exercise their constitutional rights, for an award of attorneys' fees pursuant to 42 U.S.C. § 1988, for their costs and expenses incurred herein, and for such other and further relief as the Court deems just and proper.

**COUNT II - CLASS ACTION FOR INJUNCTIVE  
RELIEF AGAINST DEFENDANTS BLACK,  
BLACKWELL, AND TURNER**

40. Plaintiffs Robert E. Thompson, Linda Scott, William Quillun, Diana Finley, Nancy Row, David Means, Judy Henderson, Shirley Lute, Mary Webb, Connie Flowers, Patrick Barks, and Alice Garnett reallege and incorporate by reference paragraphs 1 through 39 of the Complaint.

41. The rights of plaintiffs and the class members which they represent to correspond, visit, and be married and their right to be free from harassment for attempting to assert their constitutional rights, have been violated by defendants Black, Blackwell, Turner, and other employees at the Missouri Division of Corrections.

42. Plaintiffs have no adequate remedy at law and are suffering and will continue to suffer great and irreparable loss, damage, and injury, and are therefore compelled to seek injunctive relief in this Court to ensure that violation of the rights of plaintiffs and other class members be enjoined by this Court and that the Court enter a permanent injunction enjoining these violations of plaintiffs' constitutional rights, and for such other and further relief as the Court deems just and proper.

WHEREFORE, plaintiffs request that this Court grant a final injunction enjoining defendants from interfering with inmate correspondence in the absence of a legitimate and objective threat to the security of the institution, such as transmission of contraband, escape plots, forgery, fraud, or other illegal schemes; requiring revision of department policies concerning correspondence to comply with the dictates of this Court's order; enjoining violations of inmates' rights to marry once the inmates have satisfied the obligations of state law concerning marriage and have

arranged to complete the marriage ceremony at their own expense and at the reasonable convenience of prison authorities, such permission to marry not being unreasonably withheld; for the Court's order permitting visitation of inmates on furlough or weekend passes so long as those inmates do not pose an objective security threat to the institution; for an order requiring compliance of the Missouri Division of Corrections with its published policies concerning correspondence, visitation, and marriage and any revisions thereof; for an order prohibiting any officer or employee of the Missouri Division of Corrections from harassing any inmate for his attempt to assert his rights to correspondence, visitation, and marriage; for an award of attorneys' fees pursuant to 42 U.S.C. § 1988; for their costs and expenses incurred herein; and for such other and further relief as this Court deems just and proper.

/s/ Floyd R. Finch, Jr.  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was mailed by United States mail, postage prepaid, this 26th day of August, 1983, to: John C. Reed, Esq., Assistant Attorney General, P.O. Box 899, Jefferson City, Missouri 65102.

/s/ Floyd R. Finch, Jr.  
Attorney



(Filed October 5, 1983)

IN THE  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT  
OF MISSOURI  
WESTERN DIVISION

LEONARD SAFLEY, et al.,	)	
Plaintiffs,	)	
v.	)	No. 81-0891-CV-W-6
	)	82-0072-CV-W-6
WILLIAM B. TURNER, et al.,	)	
and W. DAVID BLACKWELL,	)	
et al.,	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

Pending before the Court are plaintiffs' motions for leave to file amended complaint, to compel discovery, for leave to file answers to requests for admissions out of time, and for an extension of time in which to comply with the filings contemplated by Standard Pretrial Order No. 2, and defendants' motion to dismiss.

These cases originally were filed pro se by plaintiff Leonard Safley. Floyd Finch, Jr. was requested by the Court to represent Mr. Safley in these cases on March 1, 1982 and March 5, 1982. Case No. 81-9891 is an injunction and damage action against officials of Renz Correctional Center and Ozark Correctional Center for interference with the rights of inmates to correspond, visit, and marry. Case No. 82-0072 is an injunctive action against defendants Blackwell and Black to revise the rules of the

Department of Corrections concerning correspondence, visitation, and marriage and for a mandatory injunction requiring implementation and enforcement of proper rules.

The injunctive claims of plaintiffs Safley and Watson appear to have been mooted by the marriage of Safley and Watson and the release of Safley from the custody of the Department of Corrections. To counteract the allegation of mootness of the injunctive claim, the plaintiffs seek to add additional parties as plaintiffs and to convert this action into a class action under Fed.R.Civ.P. 23(b)(2).

The defendants contend that to allow such an amendment this late in the case would consume too much time due to the need for additional discovery. Plaintiffs' counsel states, however, that he has no intention of seeking additional discovery beyond proper answers to the interrogatories and requests for production of documents filed in June of 1983. Plaintiffs' counsel believes that the defendants' fear of delay is overstated: all but one of the proposed plaintiffs are or have been inmates of the Missouri Division of Corrections and the State has a complete file on each of them; some of the additional plaintiffs have already filed grievances or written letters to the defendants concerning correspondence, visitation, or marriage; and the defendants are familiar with the plaintiffs' complaints.

The defendants also contend that the "amended complaint is for all intents and purposes a new complaint." The defendants evidently believe that this is a ruse to allow the new plaintiffs to avoid a determination by the Court of whether they are entitled to proceed in forma pauperis, receive appointment of counsel, and avoid such objections of the defendants as improper venue. Plaintiffs have adequately answered these last contentions by point-

ing out to the Court that all of the additional plaintiffs except Alice Garnett are incarcerated and have no substantial amounts of money to pay a filing fee or counsel in this case. Ms. Garnett has informed plaintiffs' counsel that she is unemployed; that she resides with her mother; and that her only income is \$75 a month in food stamps and the \$150 per month allotment she receives because of her son's enlistment in the Army. Plaintiffs' counsel also states that four of the additional thirteen plaintiffs are residents of Kansas City, so that venue is proper here.

Rule 15(a) of the Federal Rules of Civil Procedure provides that leave to amend "shall be freely given when justice so requires." The Eighth Circuit has held that "[a]mendments should be allowed with liberality . . . and when justice so requires, even after defendant has served the moving party with a motion for summary judgment." *Chesnut v. St. Louis County, Missouri*, 656 F.2d 343, 349 (8th Cir. 1981). No unfair prejudice to the defendants from the delay is apparent here. Furthermore, the delay of two years is "an inadequate basis for denying a motion to amend." *Id.* at 349 (three years insufficient). The Court recognizes that many delays have occurred in this case, but finds that the interests of justice will be served by allowing the amendment.

The requirements of Rule 23(b)(2) are that

the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief of corresponding declaratory relief with respect to the class as a whole . . . .

Without ruling on the merits of the case, the Court finds that the plaintiffs have met the requirements of Rule

23(b)(2). The Eighth Circuit previously has approved the use of Rule 23(b)(2) class actions in prison reform lawsuits. See *Holt v. Sarver*, 442 F.2d 304, 305 (8th Cir. 1971); *Jackson v. Bishop*, 404 F.2d 571, 573 (8th Cir. 1968). Moreover, plaintiffs' claims do not appear to be frivolous. See *Trudeau v. Wyrick*, slip op. Nos. 82-1817 & 82-2198 (8th Cir. Aug. 5, 1983).

The fact that the injunctive claims of plaintiffs Safley and Watson may be moot does not justify the dismissal of those claims where the substitution of new representatives can rectify the problem of mootness. See *Wright and Miller*, 7A *Federal Practice and Procedure*, Civil § 1776, at p. 42 (1972); 3B *Moore's Federal Practice* ¶ 23.40[3], at p. 23-303 (1982). Furthermore, plaintiffs' proposed amended complaint appears to have cured the possible problems of its initial conclusory nature, thus meeting the other point raised in the defendants' motion to dismiss.

Accordingly, it is hereby

ORDERED that the plaintiffs' Motion for Leave to Filed Amended Complaint is GRANTED. It is further

ORDERED that, subject to possible future modification, a class composed of the following persons is certified by the Court:

1. Persons who either are or may be confined to the Renz Correctional Center and who desire to correspond with inmates at other Missouri correctional facilities or persons outside of the Missouri Division of Corrections.
2. Persons who desire to correspond with inmates of any Missouri correctional institution whose cor-



respondence with inmates of Missouri correctional institutions has been stopped or delayed for any reason other than an attempt to violate the extant rules of the Missouri Division of Corrections concerning correspondence.

3. Persons who desire to visit or marry inmates of Missouri correctional institutions and whose rights of correspondence, visitation, or marriage have been or will be violated by employees of the Missouri Division of Corrections.

It is further

ORDERED that defendants' Motion to Dismiss is DENIED. Due to changes or additions that may be necessary because of the class certification, it is further

ORDERED that

1. The parties are to file witness and exhibit lists on or before November 15, 1983. Lists shall include all potential witnesses and exhibits except those to be used for the sole purpose of unanticipated rebuttal or impeachment.

2. The parties are to meet on or before November 30, 1983, produce each of their exhibits for inspection and agree on all exhibits for which objection will be waived as to admissibility on the ground of lack of identification.

3. The parties are to meet on or before November 30, 1983, and agree upon a proposed pretrial order containing the following:

- a. a statement of the nature of the action, including a designation of the parties and a list of the pleadings raising the issues.

- b. a statement of the facts and legal authority upon which federal jurisdiction is based.

- c. a stipulation of uncontroverted facts.

- d. a list of reservations by any party to the stipulation of uncontroverted facts.

- e. a list of facts that, although not admitted, are not to be contested at trial by evidence to the contrary.

- f. a list of exhibits to be offered at trial, other than those to be used for impeachment, in the sequence proposed to be offered, with a description of each sufficient for identification, and a statement of all admissions by and all issues between any of the parties as to the genuineness thereof, and the truth of relevant matters of fact set forth therein or in any legend affixed thereto, together with a statement of any objections reserved as to the admissibility in evidence thereof.

In addition, the parties are strongly encouraged, although not required, to include in the proposed pretrial order a statement of factual and legal issues remaining to be litigated.

4. The parties are to submit the proposed pretrial order on or before December 15, 1983. If agreement is impossible, separate pretrial orders should not be filed, but any disputes concerning the proposed order should be set forth in the proposed pretrial order.

The parties should note that it will take a most compelling reason before there will be any further extension of these deadlines. However, for good cause shown, plaintiff P. S. Watson-Safley's Motion for Leave to File Answers to Request for Admissions Out of Time is GRANTED. With respect to the Motion to Compel Discovery from

Defendants, the parties are directed to confer within ten (10) days of the date of this Order in an attempt to resolve their differences and, thereafter, to notify the Court of the results of this conference.\*

SO ORDERED.

/s/ Howard F. Sachs  
Howard F. Sachs  
United States District Judge

DATED: 10.5, 1983.

\*The Court further suggests that the parties attempt to negotiate a consent judgment. It may be assumed that minimal constitutional standards would be somewhat liberalized by approved guidelines for the operation of penal institutions and that an acceptable order could be negotiated by reasonable counsel, proceeding in good faith. If a conference with the Court or with Magistrate Ralston might expedite disposition of this case, a request should be so made.

(Filed October 21, 1983)

IN THE  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT  
OF MISSOURI  
WESTERN DIVISION

LEONARD SAFLEY, et al., and	)	
MARY WEBB, et al., individually	)	
and as a class of similarly	)	
situated people,	)	
	)	Plaintiffs,
v.	)	No. 81-0891-CV-W-6
	)	82-0072-CV-W-6
WILLIAM B. TURNER, et al.,	)	
and W. DAVID BLACKWELL,	)	
et al.,	)	
	)	Defendants.

ANSWER TO PLAINTIFFS' AMENDED  
COMPLAINT

Come now the defendants by and through Attorney General John F. McCroft, and his Assistant Henry T. Herschel, and in answer to plaintiffs' amended complaint state the following:

1. Admit that plaintiffs have brought this action under the specified statutes but deny plaintiffs have stated a claim upon which relief may be granted.
2. The defendants have insufficient knowledge to admit or deny whether Leonard Safley is residing at 524 Booth Street, Kansas City, MO 65124 and therefore deny



the same. Defendants admit plaintiff P. J. Watson-Safley is an inmate within the Missouri Division of Corrections and admit said parties are married.

3. Defendants admit Robert E. Thompson is an inmate in the Missouri Division of Corrections. Defendants admit that Linda Scott is an inmate at the Renz Correctional Center. Defendants have insufficient knowledge to admit or deny whether said plaintiffs have the desire to correspond, visit and be married, therefore it is denied. The defendants deny all other allegations contained in this paragraph.

4. Defendants admit William Quillen is an inmate at the Missouri State Penitentiary and that Diana Findley is an inmate within the Missouri State Correctional system. Defendants have insufficient knowledge to admit or deny whether said plaintiffs in this paragraph have any desire to correspond, visit and be married, and therefore, it is denied. The defendants also deny each and every other allegation contained in the paragraph.

5. Defendants admit Nancy Row is an inmate within the Missouri State Correctional system. The defendants have insufficient knowledge to admit or deny whether she desires to correspond with her ex-husband and friends, therefore, defendants deny this. Defendants further deny each and every other allegation contained in the paragraph.

6. The defendants admit that David Means and Judy Henderson are inmates within the Missouri State Correctional System. The defendants have insufficient knowledge to admit or deny whether these plaintiffs desire to correspond, visit and marry and, thus, the defendants deny this. Defendants further deny each and every other allegation contained in this paragraph.

7. The defendants admit that Shirley Lute is an inmate within the Missouri State Correctional system. The defendants have insufficient knowledge to admit or deny whether she has a desire to correspond with other male and female inmates of the Missouri Division of Corrections, and thus, deny this allegation. The defendants deny each and every other allegation contained in this paragraph.

8. The defendants admit that Mary Webb is an inmate within the Missouri State Correctional system. The defendants deny each and every other allegation contained in this paragraph.

9. Defendants admit Connie Flowers and Patrick Barks are inmates within the Missouri Division of Corrections system. The defendants have insufficient knowledge to admit or deny whether these plaintiffs desire to correspond with each other, and thus, deny the allegation. The defendants also deny each and every other allegation contained in this paragraph.

10. Defendants admit that Alice Garnett is a resident of Kansas City, Missouri. The defendants deny each and every other allegation contained in this paragraph.

11. The defendants deny each and every allegation contained in this paragraph insofar as it is inconsistent with the order of the Court of October 5, 1983.

12. The defendants admit that Lee Roy Black is the director of the Department of Corrections and Human Resources of the State of Missouri. Defendants admit that W. David Blackwell is the Director of the Division of Adult Institutions for the State of Missouri. The defendants deny each and every other allegation contained in this paragraph.

13. Defendants admit that William Turner is the Superintendent of Renz Correctional Center and any actions taken by him were taken under the color of state law in relation to marriage, correspondence, and visitation rights.

14. Defendants admit that Earl Englebrecht is employed by the Missouri State Correctional Facilities as a caseworker supervisor. The defendants admit that Betty Bowen and Kathy Crocker are employees of the Missouri State Correctional System and that their actions in relation to this lawsuit concerning correspondence, visitation and marriage were taken under the color of state law.

15. Defendants admit that Larry Trickey is an employee of the Missouri Division of Corrections; that Bernice Trickey is the wife of Larry Trickey and has served on the staff at Fordland; and that Howard Wilkins, Jim Purkett and William F. Yeager have formerly served on the staff at Ozark Correctional Center. Defendants admit that any actions taken by these defendants were taken under color of state law.

16. Defendants specifically deny that they have ever engaged in a conspiracy to deny any constitutional rights of the plaintiffs. The defendants deny all the allegations contained in this paragraph except what has already been admitted.

#### *Correspondence*

17. The defendants admit that the paragraph specified appears somewhere in the rules of the Missouri Division of Corrections' Rules and Regulations.

18. The defendants admit that correspondence concerning legal matters is permitted within the Division of

Corrections of the State of Missouri. The defendants further admit that division personnel heads have discretion in the regulation of other correspondence.

19. The defendants deny each and every allegation contained in this paragraph.

20. The defendants deny each and every allegation in this paragraph.

21. The defendants deny each and every allegation contained in this paragraph.

22. The defendants deny each and every allegation contained in this paragraph.

23. The defendants deny each and every allegation in this paragraph.

24. The defendants deny each and every allegation contained in this paragraph.

25. The defendants deny each and every allegation in this paragraph.

26. The defendants deny each and every allegation in this paragraph.

#### **MARRIAGE**

27. The defendants deny each and every allegation in this paragraph.

28. The defendants deny each and every allegation in this paragraph.

29. The defendants deny each and every allegation in this paragraph.



## VISITING

30. The defendants admit that the quoted language is in the rules and regulations of the division of corrections.

31. The defendants deny each and every allegation contained in this paragraph.

32. Defendants deny each and every allegation contained in this paragraph.

33. The defendants deny each and every allegation contained in this paragraph.

34. The defendants deny each and every allegation contained in this paragraph.

*Count I Damages Claims of Plaintiffs Safley  
and Watson*

35. Defendants reallege their answers to paragraphs 1-34 of plaintiff's amended complaint as if more fully set forth herein.

36. The defendants deny each and every allegation contained in this paragraph.

37. The defendants deny each and every allegation contained in this paragraph.

38. The defendants deny each and every allegation contained in this paragraph.

39. The defendants deny each and every allegation contained in this paragraph. The defendants further deny that plaintiffs are entitled to relief as specified in plaintiffs' prayers for relief contained under plaintiffs' Count I.

*Count II—Class Action for Injunctive Relief Against  
Defendants Black, Blackwell, and Turner*

40. The defendants reallege their answers to paragraphs 1-39 of plaintiff's amended complaint as if more fully set forth herein.

41. The defendants deny each and every allegation contained in this paragraph.

42. The defendants deny each and every allegation contained in this paragraph. The defendants further deny that plaintiffs are entitled to relief as requested in plaintiffs' prayers for relief contained under plaintiffs' Count II.

43. Further, the defendants affirmatively state the following defenses pertaining, as they are applicable, to both of the plaintiffs' counts:

## FIRST DEFENSE

Plaintiffs and plaintiffs' class have failed to state a cause of action against the defendants upon which relief can be granted.

## SECOND DEFENSE

Defendants have at all times conducted themselves in good faith and in the reasonable belief that their actions were constitutional in the treatment of the plaintiffs or the plaintiffs' class and, are therefore, immune from monetary damages.

## THIRD DEFENSE

The defendants' regulations concerning visitation, marriage and correspondence are justified by the needs of correctional institution's security and the legitimate rehabilitative interests of the State.

#### FOURTH DEFENSE

The restrictions on visitation, marriage and correspondence do not rise to a constitutional violation because they do not unnecessarily withdraw, or limit the privileges and rights to which plaintiffs are entitled to while incarcerated within the penal system.

WHEREFORE, for the foregoing reasons, the defendants request this Court to dismiss this action and that costs be taxed against the plaintiffs and the defendants receive whatever relief the Court deems just and proper under the circumstances.

Respectfully submitted,

John Ashcroft

Attorney General

/s/ Henry T. Herschel

Henry T. Herschel

Assistant Attorney General

P. O. Box 899

Jefferson City, MO 65102

(314) 751-3321

Attorneys for Defendants

#### RELEVANT REGULATIONS OF DIVISION OF CORRECTIONS

##### Title 13 - DEPARTMENT OF SOCIAL SERVICES

##### Division 20 - Division of Corrections

##### Chapter 18 - Mail and Visiting

##### 20-118.010 Inmate Mail and Telephone Calls

**PURPOSE:** It is essential that inmates develop and maintain healthy family and community relationships. Correspondence and telephone contact with family members, close friends, and organizations are important factors in maintaining the morale of the individual and motivating positive and acceptable behavior.

##### (1) Outgoing Mail

(A) There will be no restriction as to the number of persons to whom an inmate may write.

(B) There will be no restriction as to the number of letters an inmate may mail.

(C) Outgoing letters will not be sealed by the inmates before they are placed in the box or other pickup point for delivery to the mailroom, with the exception of letters to judges, courts, any elected state and federal officials, officials of confining institutions, division and department administrative officials, parole board members, attorneys, and the media. All letters may be inspected in the mailroom and examined for contraband, escape plots, forgery, fraud, and other schemes, when clear and convincing evidence justifies such actions. Letters to judges, courts, elected state and federal officials, division



and department administrators, parole board members, attorneys, media representatives can be inspected only in the presence of the inmate correspondent. Outgoing mail shall not be held for more than twenty four hours before disposition. Correspondence containing contraband shall be confiscated with a receipt forwarded to sender and addressee.

(D) Letters must have the proper amount of postage affixed when forwarded to the mailroom for mailing. Letters with insufficient postage will be returned to the inmate with a memorandum stating the amount of postage required.

(E) Correspondence with immediate family members who are inmates in other correctional institutions will be permitted. Such correspondence may be permitted between non-family members if the classification/treatment team of each inmate deems it in the best interest of the parties involved. Correspondence between inmates in all division institutions will be permitted concerning legal matters.

(G) If an inmate does not wish to receive mail from in individual, correspondence will be terminated and the inmate will be so informed by the classification/treatment team. Correspondence will not be resumed with the individual unless requested by the inmate. Parents or guardians may request termination of correspondence with an inmate from persons under the age of eighteen years.

(H) All letters are mailed upon the request of the inmate, who must assume personal responsibility for the contents. Writing threatening or obscene letters, using the mail for extortion, obtaining money by fraudulent means, and/or soliciting shall result in disciplinary action,

as well as possible prosecution for any violation of the U.S. postal regulations. Any violations may be turned over to the appropriate law enforcement agency for possible prosecution. The adjustment committee may recommend inmates found guilty of the aforementioned violations be required to adhere to approved mailing lists.

(I) Manuscripts for publication may be submitted within reasonable limits. Inmates may not enter into contractual agreements with publishers that involve a commitment for a regularly published column. Paper needed for manuscripts will either be made available in the inmate canteen or will be available for purchase from outside sources.

## (2) Incoming-Mail

(A) Incoming mail will not be read, and will not be held for more than twenty four hours before being delivered to the inmates.

(B) Letters from judges, courts, elected state and federal officials, officials of confining institutions, division and department administrators, parole board members, attorneys, and media representatives may be delivered to the inmate unopened, based on the return address on the outside of the envelope. Any letter in this privileged category of a suspicious or doubtful nature may be opened and inspected in the presence of the inmate to whom the mail is addressed.

(C) Regular incoming mail will be opened for inspection for contraband, and for money orders, checks, or currency to be placed on the inmate's account. Incoming letters containing contraband will be confiscated with written notification sent to the inmate to whom the letter is addressed.

(D) There will be no restriction as to the number of letters an inmate may receive except when clear and convincing evidence justifies limitations.

(E) Inmates may not receive packages except on special occasions, and all packages will be inspected. Packages will not be accepted unless mailed by the vendor, although exceptions may be made on an individual basis when specific circumstances warrant it. Packages from the vendor containing hobby or craft materials may be exceptions from this restriction as authorized by the institution head.

(3) Possession of Letters When Entering Institutions: When an inmate enters an institution, whether received from a county jail, through interstate transfer, or transferring from one institution to another, the following guidelines shall apply.

(A) The inmate shall be permitted to retain a reasonable number of letters in his possession. These shall be inspected for contraband either at the time he enters the institution or as soon as possible thereafter. In such cases, they shall be returned to the inmate as soon as possible.

(B) An unreasonable quantity of letters shall be sent to an address given by the inmate, destroyed, or placed in the inmate's personal property, as desired by the inmate.

(C) All letters of a legal nature concerning an inmate will be retained by the inmate if so desired.

(4) Incoming Publications:

(A) Pornographic publications are not acceptable. For our purposes, pornography means pictures or literature than concern themselves with sadism, behavior of a perverse nature, any type of sexual action. Not prohib-

ited are publications with a large national circulation which are sold openly in neighborhood drugstores and newstands, i.e., Playboy, Penthouse, etc.

(B) A reasonable limit will be placed on the number of publications an inmate may retain and exhibit in quarters. If these publications are displayed, they will be in a location that will not be offensive to the general population or public.

(C) Publications which promote violence or disorder and would affect the good order of the institutions shall be excluded. This includes but is not limited to manuals dealing with the design and production of weapons.

(5) All inmates defined as indigent by the division rules will receive writing paper, five envelopes, and five stamps a month.

(6) All mail will be forwarded to inmates who are transferred to other institutions. Mail will be forwarded to inmates who are released providing a forwarding address is available. If a forwarding address is not available, the mail will be returned to sender.

(7) Each institution will establish procedures whereby inmates will have access to telephone facilities. These telephones may be used by all inmates except those in the reception area or disciplinary segregation.

Each institution head will develop an institutional rule based on the guidelines of this division rule and submit a copy to the division director for approval prior to implementation.

Auth: sections 216.020 and 216.115 RSMo (1978).

Original rule effective November 1, 1980.

/s/ W. David Blackwell  
W. David Blackwell, Director



Title 14 - DEPARTMENT OF CORRECTIONS  
AND HUMAN RESOURCES

Division 20 - Division of Adult Institutions

Chapter 18 - Mail and Visiting

618.012 Inmate Mail

PURPOSE: Correspondence with members of an inmate's family, close friends, associates, and organizations is beneficial to the morale of all confined persons and may form the basis of good judgement in the institution and in the community. It will be encouraged and supported.

- (1) Outgoing Mail: There will be no restrictions as to the number of correspondents to whom an individual may write.
- (2) There will be no restrictions as to the number of letters an individual may mail.
- (3) All outgoing letters will not be sealed by the individual before they are placed in the box or other pickup point for delivery to the mail room with the exception of letters to judges, courts, elected state and federal officials, officials of confining institutions, Division of Corrections Administrative officials, Parole Board, attorneys and the media. All other letters may be examined in the mail room for contraband, escape plots, forgery, fraud, and other schemes, if there is evidence to justify this action.
- (4) When a bank draft is requested, a "green check" will be placed in the unsealed envelope and deposited in the Renz mail box. The official who placed the draft within the envelope will seal it for mailing.

- (5) (A) Letters must have the proper amount of postage affixed when sent to Renz mail room. Any letter without correct return address will not be mailed. All outgoing resident mail must have the inmate's correct name, register number and the address of Renz Correctional Center in the upper left hand corner of the envelope.
- (6) Correspondence with inmates in all correctional facilities will be permitted if they are immediate family members. Such correspondence may be permitted between non-family if the Classification/Treatment Team of each party deems it in the best interest of the parties involved. This applies to outgoing and incoming mail.
- (7) Correspondence between inmates in different institutions within the Department of Corrections will be permitted concerning legal matters.
- (8) If a correspondent does not wish to receive mail from an individual, it will be terminated and the inmate will be so informed by the Classification/Treatment Team. Correspondence will not be resumed with the individual unless the team is shown it is desired by the individual. In case of correspondent under the age of 18 years, the parent or guardian may terminate the correspondence.
- (9) All inmates must resume personal responsibility for the contents of each letter deposited. Threats, extortion, etc., may result in prosecution for violation of U.S. Postal regulations. Any violations may be turned over to the appropriate law enforcement agency for possible prosecution.
- (10) Manuscripts for publications may be submitted with reasonable limits. Inmates may not enter into contractual agreements with publishers that involve a commitment

for a regularly published column. Paper needed will be made available in the Inmate Canteen or can be purchased from outside sources if deemed necessary.

(1) Incoming Mail:

(A) Incoming mail will not be read; however if the Superintendent or his designate feel there is a possibility of escape plot, fraud, or other scheme, incoming mail will be examined.

(B) There is no limit on the amount of letters an inmate may receive.

(2) All incoming mail must be properly addressed with the inmates committed name, register number and dormitory.

(3) Inmates may receive mail only in the name he/she was incarcerated. Mail received under any other name will be returned.

(4) (A) Money order from ex-offenders will be accepted *only* if they are immediate family members.

(B) Except as outlined in #8, incoming mail will be opened for inspection for contraband, and for money orders, checks or currency. If in the opinion of the Superintendent or his designate, it is necessary to reject an incoming letter because it contains contraband, the inmate to whom the letter is addressed will be notified by written memo of the rejection and reason thereof. Contraband will be returned to addressee or turned over to law enforcement authorities. The inmate may challenge this by way of the inmate grievance procedure.

(5) Only U.S. postal money orders and money orders from banks and savings and loans will be accepted. All

other negotiable instruments and currency will be returned.

(6) All money orders must be made payable to; Treasurer, Missouri State Penitentiary. The name and register number of the inmate for whom the money order is sent must appear in the lower left hand corner of the money order if no place is provided. Any money order not in this form will be returned.

(7) All money orders received through the mail room will be forwarded to the Treasurer's office on a weekly basis.

(8) Letters to Judges, central office personnel, members of the Parole Board, attorneys and members of the media may be delivered to the inmate unopened. This decision will be made on the return address on the outside of the envelope. If, in the opinion of the Superintendent or his designate, any letter in this privileged category is of a suspicious or doubtful nature, it may be opened, but not read, in the presence of the inmate to whom the mail is addressed.

(9) Inmates will be responsible for all changes of address. Mail not forwardable will be forwarded via inside mail maximum of 30 days. If the inmate leaves address upon release, the mail room will forward all outside mail.

(10) Incoming publications will be defined as newspapers, magazines and books.

(A) Pornographic publications are not acceptable. Pornography means pictures or literature than concern themselves with sadism, behavior of a perverse matter, any type of sexual action. Not prohibited are publications with a large national circulation sold openly on newstands.



(B) A reasonable limit will be placed on the number of publications an individual may retain and exhibit in quarters. If publications are displayed, they will be done so in manner so as not to be offensive to the staff and public.

(C) Publications which promote violence or disorder, and would affect the good order of the institution, shall be excluded. This includes, but is not limited to, manuals dealing with the design and production of weapons.

(D) All publications must come from the publisher or vendor.

(11) Inmates will not receive packages except on specified dates, as will be posted at appropriate times. Packages will not be accepted unless mailed from vendor. (Exception 11A)

(A) A new reception may receive one package of clothing from home within 45 days of date received. Any inmate within 30 days of release may receive one outfit from home, which will be stored for him/her until date of release.

(B) Any item sold in the inmate canteen is not acceptable. Likewise, if any particular of an item is sold in the inmate canteen, the item is unacceptable.

(C) Any unacceptable item contained in a package will result in the entire package being rejected. Disposition of contents will be the responsibility of the inmate. Articles held over 60 days will be disposed of by the institution.

(D) Any package not from a vendor (with the exception of A above) will be returned unopened.

(E) If it is necessary to reject any package, the inmate to whom the package was addressed will be notified by written memo of the rejection and the reason therefore.

(F) Any package received after a specified cut-off date will be returned unopened.

(G) The inmate will be notified as to the time his/her package may be picked up.

(H) Acceptable packages will be itemized by the mail clerk and must be signed for by the inmate. Discrepancies must be brought to the disbursing agent prior to accepting the package.

(I) The mail clerk will be fully empowered to use his/her discretion in deciding the acceptability of items where questions arise.

(J) Packages containing hobby craft items are exceptions; however, they will have prior approval of the Office of Assistant Superintendent.

(12) Possession of Letters When Entering Renz: The inmate will be permitted to retain a reasonable number of letters in his/her possession. These shall be inspected for contraband when he/she enters Renz Correctional Center or shortly thereafter. In such case, they shall be returned to the inmate as soon as possible. Any quantity of letters not compliant with the above section shall be sent to an address to be named by the inmate, destroyed or placed in his/her personal property. The inmate shall indicate which disposition he/she desires. All letters of a legal nature may be retained by the inmate.

(13) Mail Pickup and Delivery: Outgoing mail will be sent out and incoming mail distributed once daily with the

exception of Saturday, Sunday and legal holidays. Due to the volume, packages, during the specified times, will be distributed as soon as possible. Failure to abide by mailing regulations may result in disciplinary action.

Original rule 11/1/76

Revised 8/15/79

Revised 10/29/80

Revised 5-10-82

Effective date

/s/ William R. Turner  
William R. Turner, Superintendent  
Renz Correctional Center

## TITLE 13 - DEPARTMENT OF SOCIAL SERVICES

### Division 20 - Division of Corrections

#### Chapter 17 - Inmate Rules

#### 20-117.050 Inmate Marriage Rule

**PURPOSE:** This rule is promulgated to set out the procedure to be followed when an inmate of the division proposes to marry while incarcerated in one of the institutions.

- (1) The Missouri Division of Corrections and its institutions are not obligated to assist an inmate or inmates who want to be married while incarcerated.
- (2) Since preparation for marriage involves manpower and manhours, the time allocated to this function shall be secondary to the functions of the institution.
- (3) When an inmate proposes to marry a person who is not incarcerated, it shall be the responsibility of that person to obtain all necessary applications and have them completed. When an inmate proposes to marry another inmate, any and all preparations will have to wait until the institution head determines that it has the manpower to assist in the preparation.
- (4) The institution will cooperate with the inmate by assisting in having blood tests made through the Missouri Division of Health as required by law.
  - (A) Since time is not of the essence, if the blood tests cannot be taken at the institution, the inmate will have to wait until the institution head decides if the institution can provide the manpower to further assist in this function.



(4) (B) The division nor its institutions is responsible for any preparations that have to be made prior to being married. The preparations shall be the responsibility of the inmate or inmates involved and their respective partners.

Auth: Section 216.020 and 216.115 RSMo.

Effective: October 1, 1978

/s/ Donald R. Jenkins  
Donald R. Jenkins, Director

## TITLE 13 - DEPARTMENT OF CORRECTIONS AND HUMAN RESOURCES

### Division 20 - Division of Adult Institutions

#### Chapter 17 - Inmate Rules

#### 20-117.050 Inmate Marriage Rule

**PURPOSE:** This rule is promulgated to set out procedures to be followed when an inmate of the division requests to be married while incarcerated in one of the institutions.

- (1) An inmate requesting to be married shall file a written request with the superintendent of the facility in which he/she resides. This request shall state the reasons for the marriage.
- (2) The superintendent may approve the marriage of an inmate when requested when there are compelling reasons to do so.
- (3) The superintendent may disapprove a marriage ceremony in the institution if it is determined that the wedding would pose a threat to the security and operation of the institution. If the superintendent approves a wedding ceremony in the institution this wedding will be private with no attending publicity.
- (4) No appropriated government funds will be used for an inmate marriage. However, the superintendent may allow the Chaplain to be available to assist in a wedding ceremony. Each institution head will develop an institutional rule based on these guidelines and submit a copy to the division director for approval prior to implementation.

Auth: Section 216.020 and 216.115 RSMo.

Effective: October 1, 1978

Revised rule effective date: December 1, 1983

/s/ Lee Roy Black	/s/ W. David Blackwell
Lee Roy Black, Ph.D., Director Department of Corrections and Human Resources	W. David Blackwell, Director Division of Adult Institutions

## Title 14

### DEPARTMENT OF CORRECTIONS AND HUMAN RESOURCES

#### Division 20 - Division of Adult Institutions

#### Chapter 17 - Inmate Rules

#### 617.030 Inmate Marriage Rule

**PURPOSE:** This rule is promulgated to set out the procedure to be followed when an inmate of Renz Correctional Center proposes to marry while incarcerated.

- (1) When an inmate proposes to marry the inmate will discuss the matter with their caseworker.
- (2) It will be the responsibility of both parties involved to prove eligibility for this marital contract, to avoid bigotry on the part of either or both individuals involved.
- (3) When an inmate proposes to marry a person who is not incarcerated, it will be the responsibility of that person to obtain all necessary applications and have them completed.
- (4) Preparation for marriage involves an element of time which is considered secondary to the normal activities of the Institutions operation, because of this the Institution will not be responsible for any preparation that has to be made prior to the marriage. All preparations will be the responsibility of the inmate or inmates involved and/or their respective partners.
- (5) No inmates at Renz Correctional Center may marry another inmate which both are confined in the institution.



(6) When two inmates enter the Department of Corrections legally married they will not be permitted to reside together at the Renz Correctional Center facility.

Because of the primary purpose of the institution, and its security responsibility to the community, all finalized plans will be submitted in writing to the institution head for approval.

The institution reserves the right to alter plans when the activity jeopardizes security of the institution.

Effective date: August 16, 1982

/s/ William R. Turner  
William R. Turner, Superintendent  
Renz Correctional Center

## Title 13 - Department of Social Services

### Division 20 - Division of Corrections

#### Chapter 18 - Mail and Visiting

#### 20-118.010 Inmate Mail and Telephone Calls

PURPOSE: This rule establishes guidelines for the regulation of inmate mail and telephone contacts.

(1) There shall be no restrictions on the person to whom an inmate may write or the number of letters an inmate may mail.

(A) All mail of inmates assigned to an institution shall be processed through an institutional mailroom. Regular outgoing inmate mail shall be delivered to the institutional mailroom or designated mail pick-up point unsealed. All such mail will be subject to examination for unauthorized items, threats to institutional security or the safety of employees or inmates and evidence of illegal activity when there is probable cause to justify the examination.

(B) Privileged outgoing mail shall be letters to judges, courts, elected government officials, departmental and divisional administrators, parole board members, attorneys, co-defendants and media representatives. Privileged mail may be delivered to the mailroom or pick-up point sealed, and may be examined only in the presence of the sending inmate.

(C) Examination and forwarding of outgoing inmate mail will be completed within twenty-four (24) hours of receipt by the institutional mailroom.

(D) Outgoing mail with insufficient postage will be returned to the sending inmate with the requested postage noted.

(E) Any unauthorized article or substance found in outgoing inmate mail will be confiscated, and a conduct violation report for Contraband will be issued on the sending inmate.

(F) Inmates shall be held responsible for correspondence contents. Conduct violation reports shall be issued if evidence of violations of divisional rules is found during correspondence examination. Evidence of violations of state or federal law shall be referred to the appropriate law enforcement agency. Correspondence containing evidence of law or divisional rule violations shall be confiscated.

(G) If an individual does not wish to receive mail from an inmate, correspondence will be terminated and the inmate will be so informed by the classification/treatment team. Correspondence will not be resumed with the individual unless requested by the individual. Parents or guardians may request termination of correspondence with an inmate from persons under the age of eighteen years.

(2) There shall be no restrictions on the persons from whom an inmate may receive mail or the number of letters an inmate may receive.

(A) Privileged incoming mail shall be letters from judges, courts, elected government officials, departmental and divisional administrators, parole board members, attorneys, co-defendants and media representatives. Privileged mail shall be identified by the return address on the outside of the envelope, and shall be delivered to the inmate addressee unopened. Privileged mail may be opened and inspected in the presence of the receiving inmate if there is reasonable cause to suspect the outside return address is false.

(B) Regular incoming mail will be opened in the mailroom and inspected for unauthorized articles or substances and money orders, checks, or currency. All incoming mail will be subject to examination for threats to institutional security or the safety of employees or inmates and evidence of illegal activity when there is probable cause to justify the examination. Unauthorized articles or substances will be confiscated, and a written notice of the confiscated items placed in the correspondence delivered to the inmate. Money orders, checks, and currency will be forwarded to the institutional business office and added to the inmate's account. A receipt for the received funds will be placed in the correspondence delivered to the inmate.

(C) Incoming mail from inmates of other correctional facilities and persons under the supervision of the Department of Corrections and Human Resources will be subject to examination for unauthorized articles and substances, threats to institutional security and safety, and evidence of illegal activity. Any information concerning institutional security and safety or illegal activities will be forwarded to the appropriate correctional facility or law enforcement officials.

(D) Incoming mail will be examined and delivered to the receiving inmate within twenty-four (24) hours of receipt by the institutional mailroom.

(3) Institution heads may designate special occasions or periods of time in which inmates may receive packages by mail. Unless otherwise specifically authorized by the institution head, incoming packages shall be mailed directly from a commercial vendor. All packages will be opened in the mailroom and inspected for unauthorized articles or substances.



(4) Inmates shall not subscribe to or receive publications which promote violence, disorder, or the violation of state or federal law. Any publication which provides technical information on the design, construction, or use of any instrument or device which could endanger institutional security or safety shall also be prohibited. The institution head or his designee shall determine the acceptability of incoming publications.

(5) Inmates shall be notified in writing by the mailroom staff of the non-delivery of any incoming mail addressed to them, and of the refusal to mail any outgoing mail from them. When incoming mail is not delivered the correspondent is also to be notified in writing. The reasons for the non-delivery or the refusal to mail and the disposition of the affected correspondence will be provided in writing.

(6) Inmates shall not enter into credit agreements or installment purchase arrangements by mail.

(A) Any outgoing inmate correspondence involving purchases on credit, billing after delivery, or payment on delivery arrangements will be so identified by institutional mailroom staff and returned to the sending inmate.

(B) Incoming payment on delivery correspondence to inmates will be refused by the institutional mailroom.

(C) Incoming merchandise with accompanying bills for payment will be held in the institutional mailroom. The vendor will be advised by mail that such a procedure is not permitted, and that merchandise received will be returned to the sender upon receipt of adequate return postage. If return postage is not received from the vendor within thirty (30) days of mailing of the notification, the merchandise will be donated to a local charity.

(7) Inmates shall be permitted to retain a reasonable number of personal letters and publications.

(A) If the number of letters and publications retained by an inmate creates a fire hazard or interferes with institutional operations, excess letters and publications will be destroyed, placed in the inmate's stored personal property, or mailed at inmate expense to an address designated by the inmate, as desired by the inmate.

(B) All letters of a legal nature concerning an inmate may be retained by that inmate.

(C) A reasonable number of letters and publications in the possession of an inmate entering an institution will be inspected for unauthorized articles or substances and returned to the inmate within twenty-four (24) hours. Excess letters and publications will be disposed of as requested by the inmate.

(D) Publications in an inmate's possession will not be displayed in such a way as to be offensive to other inmates or staff.

(8) Mail will be forwarded to inmates transferred within the division. Mail will also be forwarded to released inmates who have left forwarding addresses with the institutional mailroom. Mail addressed to released inmates who have left no forwarding address will be returned to the sender.

(9) All inmates defined as a indigent by the division rules will receive writing paper, five envelopes, and five stamps a month.

(10) Access to outgoing telephone communications shall be available to all inmates except those in reception units and those assigned to an adjustment unit. Access shall be

limited only by the availability of facilities and staff supervision. Inmate telephone facilities will be installed in such a manner so that inmate telephone calls can be made at no cost to the institution. Inmate telephone calls at institutional expense will be made only upon authorization of the institution head or designee.

Each institution head will develop an institutional rule no more restrictive than the guidelines of this divisional rule and submit a copy to the division director for approval prior to implementation.

Auth: sections 217.040 and 217.155, RSMo (Supp. 1983).

Original rule effective November 1, 1980.

Revision effective June 15, 1984.

## Title 13 - Department of Social Services

### Division 20 - Division of Corrections

#### Chapter 17 - Inmate Rules

##### 20-117.050 Inmate Marriages

**PURPOSE:** This rule establishes guidelines for inmate marriage ceremonies within the Division of Adult Institutions.

(1) Inmates will be permitted to marry the spouse of their choice. The plans for the ceremony may be regulated by the institution head to protect the security or operation of the institution.

(2) Any inmate requesting marriage while assigned to an institution shall submit a written request to the institution head at least thirty (30) days prior to the proposed marriage. The request shall include the name of the prospective marriage partner, the proposed date of the marriage, and the names of the proposed marriage ceremony guests. The institution head may request the name and credentials of the person who will perform the ceremony. Verification of the official's credentials may be required.

(3) The institution head or designee may adjust the proposed date, time, and attendance of the ceremony as deemed necessary to maintain institutional security and orderly operations. The inmate shall be advised of any changes in ceremony plans, and may appeal such changes through established inmate grievance procedures. The ceremony shall be held on the date requested by the inmate unless there are compelling reasons for a change of the date.



(A) The marriage ceremony shall be supervised by an assigned institutional staff member, and shall take place during regular visiting hours.

(B) The ceremony shall take place in a secure area not accessible to other inmates. Guests shall not have contact with other inmates. Inmates who attend the wedding must be approved by the institution head or his designee.

(C) Ceremony guests shall be on the inmate's approved visiting list. The number of guests in attendance may be limited for security and/or because of availability of space.

(D) Institutional security regulations concerning photographs, food, and authorized items shall apply to marriage ceremony participants and guests.

(4) The securing, completion and timely submission of all necessary applications and forms shall be accomplished by the inmate and his/her prospective marriage partner.

(5) No division funds will be directly expended for an inmate marriage ceremony and institutional staff will not participate in the marriage ceremony. The institutional chaplain may, however, conduct the ceremony if requested, and if approved by the institution head.

(6) In the event that inmates of different institutions wish to marry, each shall submit a request to the appropriate institution head. Marriage ceremony arrangements, preparations and any necessary transportation shall be by mutual agreement of the institution heads or their designees. The marriage ceremony shall be subject to the same limitation and conditions as those imposed on an inmate to non-inmate marriage ceremony.

Each institution head will develop an institutional rule no more restrictive than the guidelines of this divisional rule and submit a copy to the division director for approval prior to implementation.

Auth: sections 217.040 and 217.155, RSMo (Supp. 1983).

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